



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/015,458	01/29/98	YUFA	A

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MMC1/1215

EXAMINER	
ROSENBERGER, R	
ART UNIT	PAPER NUMBER

2877

DATE MAILED: 12/15/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/015,458

Applicant(s)
Yufa

Examiner
Richard Rosenberger

Group Art Unit
2877



☒ Responsive to communication(s) filed on Mar 30, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 38-48 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 38-48 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. The specification was extensively amended by the amendment filed 13 November 1998. The amendment filed 30 March 1999 also extensively amends the specification, and many of the changes in this second amendment are the same as those that were made by the first amendment. The number and character of these amendments have made it difficult to enter the amendments accurately, and should the application ultimately issue, would make it unlikely that the specification would be printed correctly. It would be helpful if applicant could submit a substitute specification incorporating all of the changes so that the Office would have a clean copy of the specification as applicant intends it. Such a substitute specification cannot enter new matter, and should be accompanied by a statement that it does not. If there are additional changes made beyond those in the amendments already submitted, there should accompany the substitute specification information as to what these additional changes are.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 38-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over The acknowledged prior art in view of Bostater (US 5,751,424).

The specification acknowledges that it is known in the art to measure quantity and size of particles using optical measuring apparatus. See, for instance, the specification, page 1, where it states that "methods and devices for determining quantity and size of the particles . . . are now well known, and it is also well known that powerful light or laser detecting systems can be, and have been used to achieve particle size and particle quantity measurements." It is acknowledged that such systems use microprocessors or other computers to process the data; see for example, "[s]uch devices, mostly using microprocessor or computers, are well known". It is acknowledged that such systems can use scattered light; see, for example, page 3, lines 5, 14 and 19 of the specification.

The prior art discussed in the specification uses a wire or cable to transmit data from the measurement portion to the computer portion of the instrument; see for example the specification, page 4, lines 11 and 13, and the mention of "a remote sensor configuration of the particle analyzing device, wherein, for example, the sensor and the data processing means are represented by two separated and remote of each other units connected by long wires" (page 4, lines 16-19). It is also known in the art that the computer can send control signals to the measurement apparatus; see the specification, page 4, lines 13-14, which refers to the computer as "the data processing and control system".

It is well known in the art that such a wire can be replaced by a wireless link. See for instance Bostater, which shows an optical measuring apparatus and teaches that “[d]ata collected by the sensor 106 is provided to a remote processor via a hardwired or wireless data or signal link as are well-known in the art. The processor 107 receives data collected by the sensor 106 and processes the received data according to the particular analysis to be performed. (Column 4, lines 5-9) Note that the known equivalent of the “hardwired” and “wireless” data link is taught, as is the fact that such are “well known in the art”. As it is well known in the art to send data from a measuring apparatus to a computer over a wireless link, it is obvious to send any appropriate signals from the computer to the measuring apparatus over a wireless link as well; there would be little point in providing a wireless link from the measuring device to the computer if a cable were going to be provided anyway for the communication from the computer to the measuring device.

Looking specifically at the steps of claim 38, it is found that “detecting of said particles, intersecting a light beam by light detecting means of a particle detecting system” is acknowledged prior art. “ of a wireless Using wireless communication between an optical measuring apparatus and a data processor (“ of a wireless communicating remote detecting system, comprising a wireless communication means of said wireless communicating remote detecting system”) is known, as taught by Bostater. The step of “processing of . . . signals by a . . . signal

processing means of a signal processing system” is acknowledged prior art. Having such a system as a part of a wireless system is, as above, obvious. Any of the acknowledge prior art systems form measuring particle quantity and size will necessarily perform the step of “forming in said signal processing system . . . a data containing information about the quantity and size of said particles”; such a system cannot possible work if the signals formed therein do not contain the information to be obtained. It is clearly obvious to convert the data “to a form, which is acceptable for a wireless communication” given the obviousness of the use of the wireless communication as shown by Bostater. Processing the signals in the data processing system is acknowledged prior art.

Thus there is noting in claim 38 which is not the simple and straightforward obvious use of a wireless link, known in the art, to a known particle measuring system.

4. The remarks filed 30 March 1999 refer primarily to the Martin reference used in a previous office action. The use of the Bostater reference in the rejection above renders much of what is argued moot.

The remarks argue that the Martine reference us a smoke detector which is classed in class 340 rather than class 356. The system shown by Bostater is an optical measuring device classified in class 356. More to the point, neither Martin nor Bostater is cited as showing exactly what is claimed, but to show that it is

known in that art to use a wireless link to communicate between an optical measuring instrument and a computer which in some manner uses the data relayed from the instrument. The standard is obviousness under 35 U.S.C. 103. Once it is known to use a wireless link to connect together an optical measuring instrument and a computer, it is obvious to use such a link for any instrument for which such an wireless link would be useful. There is nothing about the data provided by a known particle measuring system of the sort discussed as prior art in the specification that would cause those in the art to mistakenly believe that it could not be, or should not be, transmitted by a wireless link, particularly given the fact, as set forth by Bostater, that such wireless links are well known in the art for the transmission of such data from a measuring instrument.

The comments concerning the computer on pages 11 and 12 of the remarks filed 30 March 1999 are not understood. The question is not whether the application or claims use the word "computer". The question is whether or not the use of a computer, by whatever term it may be referred, is known in the art for the processing of data from the type of optical particle measuring system claimed. It is clear that the data processing system being claimed is a computer of some sort; the specification at many points refers to the processor as a "microprocessor system", which is a computer system; see, for example, page 12, line 14; page 13, line 16; and page 14, lines 9 and 18. It is also clear that the specification acknowledges that the use of such computer systems for such data processing is known in the art; see page

1, line 13 ("[s]uch devices, mostly using microprocessors or computers, are well known . . ."). Applicant cannot obtain a patent on known and obvious subject matter by simply calling well-known prior art material by a different name.


The remarks of 30 March 1999, page 15, line 4, argue that there is "commercial success". Commercial success must be shown by appropriate declarations; the sort on unsupported allegations of commercial success presented here have no evidentiary weight.

5. Papers related to this application may be submitted to Group 2800 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 308-7722.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. a. Rosenberger whose telephone number is (703) 308-4804.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger
13 December 2000



Richard A. Rosenberger
Primary Examiner